

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate)	CG Docket No. 17-59
Unlawful Robocalls)	
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97
)	

REPLY COMMENTS OF AT&T

Amanda E. Potter
Gary L. Phillips
David Lawson
AT&T SERVICES, INC.
1120 20th Street, NW
Washington, DC 20036

Kevin G. Rupy
Kathleen Scott
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006

August 23, 2019

TABLE OF CONTENTS

INTRODUCTION AND SUMMARY	1
I. THERE IS OVERWHELMING RECORD SUPPORT FOR A SAFE HARBOR	2
A. The Commission Should Establish a Broad and Flexible Safe Harbor To Encourage Voice Service Providers To More Aggressively Block Illegal Calls.	2
B. An Appropriate Safe Harbor Should Balance Providing Flexibility and Incentives for Effective Call Blocking and Limiting False Positives.....	5
C. The Commission Should Be Skeptical of Proposals that Would Narrow the Safe Harbor or Undermine Its Flexibility.	8
II. WHILE THERE IS CONSENSUS THAT CRITICAL CALLS SHOULD BE PROTECTED, THE PROPOSALS TO FACILITATE SUCH PROTECTION REQUIRE FURTHER ANALYSIS	10
CONCLUSION	13

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Advanced Methods to Target and Eliminate)	CG Docket No. 17-59
Unlawful Robocalls)	
)	
Call Authentication Trust Anchor)	WC Docket No. 17-97
)	

REPLY COMMENTS OF AT&T

AT&T Services, Inc.¹ hereby submits these reply comments to opening comments filed in response to the *Third Further Notice of Proposed Rulemaking* (“*FNPRM*”) in the above-captioned proceeding.²

INTRODUCTION AND SUMMARY

The *FNPRM* is an important step in the Commission’s “multi-pronged strategy to curb illegal robocalls,” an effort to which AT&T is fully committed.³ As a market leader in protecting consumers from illegal robocalls, AT&T is pleased by the overwhelming record support for a call blocking safe harbor. With this support, the Commission should act swiftly to establish a broad and flexible safe harbor. Additionally, while AT&T of course agrees with commenters that emergency calls should be protected, there is no consensus on how best to achieve that goal. The Commission should continue to explore options for safeguarding critical calls, and AT&T stands ready to work with the Commission to identify the best means of doing so.

¹ AT&T Services, Inc. is filing these reply comments on behalf of its wireless and wireline operating affiliates (collectively, “AT&T”).

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Declaratory Ruling and Third Further Notice of Proposed Rulemaking, FCC 19-51 (rel. June 7, 2019) (“*Opt-Out Declaratory Ruling*” or “*FNPRM*”).

³ *Id.* ¶ 2.

I. THERE IS OVERWHELMING RECORD SUPPORT FOR A SAFE HARBOR

A. The Commission Should Establish a Broad and Flexible Safe Harbor To Encourage Voice Service Providers To More Aggressively Block Illegal Calls.

Support for a call blocking safe harbor abounds in the record. Stakeholders representing a range of diverse interests—consumer groups,⁴ call originators,⁵ regulators,⁶ and industry, including large and small voice service providers, analytics and software providers, and trade associations⁷—all support the adoption of a safe harbor to better arm providers in the fight against illegal robocalls. Indeed, the record reflects a new and growing awareness that a safe harbor is an appropriate step at this critical juncture. For example, a coalition of consumer organizations explains that its “goal is to get to the point that all scam calls are stopped before

⁴ See, e.g., Comments of Consumer Reports, National Consumer Law Center, et al., CG Docket No. 17-59, at 8 (July 24, 2019) (“*Consumer Reports, NCLC, et al. Comments*”) (supporting a safe harbor “for calls that phone companies have very high confidence are illegitimate”); Comments of AARP, CG Docket No. 17-59, at 10-11 (July 24, 2019) (“*AARP Comments*”) (proposing a “safe harbor ‘glide path’”).

⁵ See, e.g., Comments of Professional Association for Customer Engagement, CG Docket No. 17-59, at 2 (July 24, 2019) (“*PACE Comments*”).

⁶ See Comments of Massachusetts Department of Telecommunications and Cable, CG Docket No. 17-59, at 4-5 (July 24, 2019) (“*MDTC Comments*”) (calling for the Commission to encourage greater participation in traceback “by expanding its proposed safe harbor to include calls blocked pursuant to such efforts”).

⁷ See, e.g., Comments of Comcast Corporation, CG Docket No. 17-59, at 4 (July 24, 2019) (“*Comcast Comments*”); Comments of Competitive Carriers Association, CG Docket 17-59, at 2 (July 24, 2019) (“*CCA Comments*”); Comments of CTIA, CG Docket No. 17-59, at 7 (July 24, 2019) (“*CTIA Comments*”); Comments of First Orion Corp., CG Docket No. 17-59, at 13 (July 24, 2019) (“*First Orion Comments*”); Comments of NCTA – The Internet & Television Association, CG Docket No. 17-59, at 8 (July 24, 2019) (“*NCTA Comments*”); Comments of NTCA, CG Docket No. 17-59, at 10 (July 24, 2019); Comments of Numeracle, Inc., CG Docket No. 17-59, at 3 (July 24, 2019) (“*Numeracle Comments*”); Comments of Sprint Corporation, CG Docket No. 17-59, at 2 (July 24, 2019) (“*Sprint Comments*”); Comments of T-Mobile USA, Inc., CG Docket No. 17-59, at 5 (July 24, 2019) (“*T-Mobile Comments*”); Comments of Transaction Network Services, Inc., CG Docket No. 17-59, at 8 (July 24, 2019) (“*TNS Comments*”); Comments of Twilio Inc., CG Docket No. 17-59, at 6 (July 24, 2019); Comments of USTelecom – The Broadband Association, CG Docket No. 17-59, at 6 (July 24, 2019) (“*USTA Comments*”); Verizon Comments on Further Notice, CG Docket No. 17-59, at 11 (July 24, 2019) (“*Verizon Comments*”); Comments of WTA—Advocates for Rural Broadband, CG Docket No. 17-59, at 6 (July 24, 2019).

they reach the consumer.”⁸ A state regulatory body urges the Commission “to expand[] its proposed safe harbor to include calls blocked pursuant to . . . traceback efforts.”⁹ Perhaps most notably, PACE—a telemarketer industry group that has been critical of service provider call blocking and labeling efforts—does not oppose a safe harbor, asking instead that the safe harbor “[i]ncentivize [b]est [p]ractices.”¹⁰

Beyond general support for a safe harbor, there is strong support for the Commission to adopt a **broad** safe harbor. For example, First Orion discusses a holistic approach to call blocking that corresponds well to the safe harbor proposed by AT&T.¹¹ Likewise, the comments of service providers, including Sprint, T-Mobile, and Verizon, as well as the industry groups representing their interests, are aligned in their support for a broad safe harbor as the best means of achieving the Commission’s goal of providing relief to consumers.¹²

Further supporting the Commission’s adoption of a broad call blocking safe harbor for provider-initiated blocking is the clear record evidence that SHAKEN/STIR—standing alone—is not expected to be a viable substitute for reasonable analytics in the near term. The Commission has consistently heard—both from experts at its July 11 SHAKEN/STIR Robocall Summit and

⁸ *Consumer Reports, NCLC, et al. Comments* at 8.

⁹ *MDTC Comments* at 3-4.

¹⁰ *PACE Comments* at 2.

¹¹ *First Orion Comments* at 9-10.

¹² *See, e.g., NCTA Comments* at 9 (supporting “a broad safe harbor” for providers that “block calls in good faith and with a reasonable level of confidence that the blocked calls are illegal or unwanted”); *CTIA Comments* at 11 (advocating for a “broader safe harbor that is based on reasonable analytics”); *Sprint Comments* at 2 (championing a “broad safe harbor” to “encourage the deployment of . . . analytics”); *T-Mobile Comments* at 8 (arguing that “the safe harbor should not be limited to providers blocking calls under only the STIR/SHAKEN framework”); *USTA Comments* at 6 (“The adoption of a broad safe harbor for service providers is essential to ensure the fullest implementation of call blocking solutions to protect consumers.”); *Verizon Comments* at 11-12 (“[C]onsumers will benefit from a strong safe harbor giving providers a green light to block more aggressively.”).

now from a broad range of commenters, including AT&T—that SHAKEN/STIR is not intended to determine whether a call is legal or illegal, or wanted or unwanted.¹³ Accordingly, instead of establishing a narrow safe harbor, the Commission should adopt a safe harbor that incorporates SHAKEN/STIR analytics as one factor to be considered in a broader, analytics-based blocking approach.¹⁴ Importantly, the Commission should not *require* providers to incorporate SHAKEN/STIR data into their reasonable analytics: reasonable analytics that do not include SHAKEN/STIR data can, and often do, enable a provider to accurately identify illegal calls.¹⁵ Indeed, AT&T has been effectively blocking illegal calls in the years prior to implementing SHAKEN/STIR under its industry-leading and reasonable call blocking program.

The record also calls on the Commission to eschew prescriptive call blocking rules in favor of a *flexible* approach. A flexible safe harbor would avoid unintended negative consequences that could stifle providers’ innovation and experimentation in the robocall mitigation space and/or provide bad actors the means to circumvent robocall mitigation efforts. Numerous commenters share AT&T’s concerns.¹⁶ As one party explained, “[w]hile the Commission has said that a combination of certain relevant factors or objective standards . . .

¹³ See, e.g., *First Orion Comments* at 4; *TNS Comments* at 4-5; *USTA Comments* at 8.

¹⁴ See, e.g., *ACA Connects Comments* at 7, n.15; *TNS Comments* at 7.

¹⁵ See *CTIA Comments* at 3. However, AT&T would not object to conditioning the applicability of a safe harbor on the provider’s implementation of SHAKEN/STIR. Comments of AT&T, CG Docket No. 17-59, at 11-12 (July 24, 2019) (“*AT&T Comments*”).

¹⁶ See *Comcast Comments* at 8 (“As providers continue to experiment with and develop methods for blocking fraudulent spoofed robocalls based on analytics enabled by SHAKEN/STIR implementation, it is critical that the Commission give providers sufficient regulatory flexibility to deploy effective solutions for consumers.”); *CTIA Comments* at 13-14 (noting that in adopting the *Opt-Out Declaratory Ruling*, the Commission rightly recognized “the primary advantage” of the reasonable analytics approach is “flexibility for voice service providers to take steps to end illegal and unwanted voice calls”); Comments of Noble Systems Corporation, CG Docket No. 17-59, at 14 (July 24, 2019) (“*Noble Comments*”) (warning that requirements can “lead to a quagmire of needless complexity”).

serve as reasonable analytics, the competing concern is that further specifying or providing overly prescriptive rules regarding analytics methods restricts future innovation and would give ‘scammers’ a road map on how to revise their practices to evade blocking and could also chill innovation on call protection methods and technologies that must constantly evolve to face the ever-changing threat from scammers.”¹⁷

More fundamentally, the record reflects consensus that industry-driven solutions will be superior to government mandates in this dynamic area. Industry solutions leave room for innovation and agility in responding to a sophisticated and fast-changing threat, like robocallers.¹⁸ The SHAKEN/STIR protocols are a good example. Industry developed the protocols; industry is implementing them and establishing an administrative framework; and industry is leading the Governance Authority, which is a particularly good example of industry stakeholders coming together and working efficiently toward a common goal. The Commission should continue to provide flexibility to foster collaboration for SHAKEN/STIR and beyond.¹⁹

B. An Appropriate Safe Harbor Should Balance Providing Flexibility and Incentives for Effective Call Blocking and Limiting False Positives.

AT&T agrees that the Commission should strike the right balance between providing

¹⁷ Letter from John C. Ayers, VP, Corporate Development at First Orion, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59, at 2 (July 23, 2019).

¹⁸ See *CCA Comments* at 4-5 (“Carriers have significant market incentives to adopt the best solution available to block robocalls. Accordingly, the FCC should refrain from adopting a specific mandate for one technology that would risk impeding development of other potential new strategies to block robocalls. Rather, the FCC should allow the technology to lead the policy.”).

¹⁹ For the same reason, the Commission should avoid the pitfall of conflating call blocking *authority* with the scope of a safe harbor. See, e.g., Comments of American Bankers Association, et al., CG Docket No. 17-59, at 2 (July 24, 2019) (“*ABA et al. Comments*”). Providers do not derive authority to block from a safe harbor; rather, a safe harbor provides protection from liability when a provider inadvertently blocks a legitimate call. The Commission therefore should avoid suggesting that a safe harbor necessarily would represent the outer limits of call blocking practices that would be deemed just and reasonable. See *AT&T Comments* at 18.

flexibility and incentives for effective call blocking and limiting the potential for false positives.²⁰ The record contains multiple proposals to address false positives, some of which may have merit. For example, AT&T supports conditioning a call blocking safe harbor on a reasonable and flexible requirement for voice service providers to provide contact information so that calling parties have information needed to address any blocking errors.²¹ In fact, AT&T already widely distributes and publishes on its website its point of contact for instances of inadvertent blocking and has encouraged other industry stakeholders to do the same.²² In addition, earlier this year AT&T implemented an announcement to signal callers whose calls are blocked in its Mobility network pursuant to AT&T's provider-initiated call blocking program. AT&T agrees that such announcements are helpful to facilitate the timely remediation of inadvertent blocking and is continuing to test different methods of signaling to blocked callers.²³

Nevertheless, flexibility is necessary even with efforts to prevent and address false positives.²⁴ The Commission should avoid overly prescriptive rules that limit the flexibility of

²⁰ See, e.g., *PACE Comments* at 2.

²¹ See, e.g., *id.* at 4 (“[T]he called party and the caller should be able to easily contact the carrier and resolve the error to prevent future blocking.”); see also *Opt-Out Declaratory Ruling* ¶ 38 (explaining “we believe that a reasonable call-blocking program instituted by default would include a point of contact for legitimate callers to report what they believe to be erroneous blocking”).

²² AT&T has a phone number and process for reporting a suspected mistaken block. It has distributed this telephone number within the industry, as well as to groups that represent the interests of telemarketers. AT&T also posts the telephone number on multiple pages of its website. See, e.g., <https://about.att.com/sites/cybersecurity/ae/robocall>.

²³ See, e.g., *AARP Comments* at 8 (calling for “standardized methods for customer notification that their calls have been blocked”); Comments of the American Association of Healthcare Administrative Management, CG Docket No. 17-59, at 5-6 (July 24, 2019) (“*AAHAM Comments*”); *ABA et al. Comments* at 6.

²⁴ With respect to caller announcements, the Commission should avoid mandating the form or substance of the announcement to enable providers to strike the balance between providing information to callers who are inadvertently blocked and giving scammers information that would assist their efforts to circumvent voice provider blocking efforts.

providers and may diminish the incentives of providers to invest in call blocking programs. In the current call blocking environment, prescriptive mandates are unjustified and unwise.²⁵ Significantly, even among those commenters that did not affirmatively support the adoption of a safe harbor, no commenter identified a significant problem with blocking errors. There is virtually no evidence of a high volume of false positives resulting from *provider*-initiated call blocking programs, even anecdotally. With the absence of evidence of a false-positive problem, the Commission should avoid onerous mandates, especially where industry innovation, experimentation, and investment will continue to be vital to address the illegal robocall problem.

AT&T takes seriously concerns about inadvertent call blocking and agrees that there are reasonable steps that providers can and should take to prevent and remedy false positives. Adopting a safe harbor like the one proposed by AT&T would help to alleviate concerns of the potential for blocking errors. Reasonable programs like AT&T's already have effective mechanisms to address false positives, and indeed, AT&T's proposal would require the implementation of such mechanisms to take advantage of the safe harbor.²⁶ To be clear, standing up a call blocking program requires an ongoing commitment to invest, learn, and adapt as scammers evolve²⁷—commitments that AT&T has and will continue to make. Thus, adopting a

²⁵ See *T-Mobile Comments* at 9 (“The marketplace is in the best position to determine if providers are excessively blocking wanted calls, and the response to that blocking.”); *Sprint Comments* at 3 (“The technology to identify illegal and unwanted calls is rapidly evolving, and bad actors rapidly change their calling practices in response. Any attempt to define what criteria indicate an illegal or unwanted call will likely be immediately obsolete.”).

²⁶ AT&T's proposal calls for the provider to have “a process in place to unblock legitimate calls in the event of any inadvertent blocking of such calls.” Comments of AT&T, CG Docket No. 17-59, at 12 n.26 (Sept. 24, 2018).

²⁷ Relatedly, AT&T disagrees with the *FNPRM*'s assumptions regarding the cost savings available to service providers that implement call blocking technologies. See *FNPRM* ¶ 59 (estimating that “reasonable use of call blocking technologies will substantially reduce [providers'] costs while increasing consumer benefits by more than \$3 billion annually”). Such assumptions lack factual or empirical support and do not account for all costs, including costs

safe harbor along the lines of AT&T’s proposal would help to ensure that the providers receiving the benefit of a safe harbor are limited to those who would not abuse it.

C. The Commission Should Be Skeptical of Proposals that Would Narrow the Safe Harbor or Undermine Its Flexibility.

While AT&T believes that certain proposals for more limited safe harbors may have merit, including a safe harbor for blocking calls transiting international gateways that display a U.S.-based caller ID,²⁸ the Commission should be wary of proposals that would restrict the myriad efforts of industry to combat the serious robocall problem. Chief among them, the Commission should reject calls to sunset the Commission’s recently adopted *Opt-Out Declaratory Ruling* once SHAKEN/STIR is implemented. Some groups propose rescinding the reasonable analytics portion of the *Opt-Out Declaratory Ruling* “[o]nce the SHAKEN/STIR framework has been operationalized,” urging the Commission instead to allow voice service providers to block on an opt-out basis “only those calls: (1) that have not been properly

associated with deploying SHAKEN/STIR, reasonable analytics programs, or feedback loops to address false positives. Further, to the extent service providers *already* possess a multibillion-dollar cost incentive to implement call blocking, it would be reasonable to expect that more providers—indeed, the entire industry—would have taken steps to implement reasonable call blocking programs, which has not occurred. For these and other reasons, the Commission should not rely on superficial, unquantified, and untested assumptions regarding service provider cost savings as a basis for adopting a call blocking safe harbor or other otherwise reasonable actions.²⁸ See Comments of West Telecom Services, CG Docket No. 17-59, at 5-6 (July 24, 2019) (explaining when “review of call signaling information indicating an international call origin together with review of potentially inconsistent [CDR] information may detect discrepancies in the call information,” a provider should be encouraged to more closely scrutinize the call); cf. *Verizon Comments* at 3 (“The STIR/SHAKEN framework must protect U.S. consumers where U.S.-based service providers turn a blind eye to foreign providers sending calls to U.S. consumers from U.S. numbers.”); Ryan Tracy & Sarah Krouse, *Small Companies Play Big Role in Robocall Scourge, but Remedies Are Elusive*, Wall Street Journal (Aug. 18, 2019) (“[Problem telecom providers’] outsize role in the robocall scourge has become apparent as large telecom companies get better at tracing robocalls to their source, spurring calls for regulators to hold them accountable.”); see also *AT&T Comments* at 19-23 (expressing interest in “the proposal to establish a framework to identify and target voice service providers that facilitate and fuel illegal and unwanted robocalls—including by blocking traffic based on the identity of the originating provider”).

authenticated under SHAKEN/STIR; or (2) that are otherwise illegal.”²⁹ These proposals are misguided. The *Opt-Out Declaratory Ruling* enables providers to offer *consumer-facing* call blocking tools, on an opt-out basis, so long as those tools are “based on any reasonable analytics designed to identify unwanted calls,” among other requirements.³⁰ Such consumer tools are but one way for a provider to address the robocall problem, to which no silver bullet exists.³¹ *Provider-initiated* call blocking is a separate tool, distinct from consumer call blocking tools. And even once SHAKEN/STIR is deployed, a provider engaged in provider-initiated blocking may still need data beyond SHAKEN/STIR to reasonably determine whether a call is illegal.³² Accordingly, claims in the record that “certain elements of the June 2019 call blocking *Declaratory Ruling* . . . will become redundant once SHAKEN/STIR is implemented widely” are incorrect and refuted in the transcript of the Commission’s July 11 Robocall Summit and the record of this proceeding.³³ Service providers need *many* weapons in their arsenal to combat illegal and unwanted robocalls. The Commission took an important step forward with the *Opt-Out Declaratory Ruling*, and any calls to retreat are nonsensical.

Likewise, the Commission should reject proposals that would reduce provider flexibility. For example, while Numeracle rightly recognizes the need for a safe harbor that is not based

²⁹ AAHAM Comments at 3; see also Comments of ACA International, CG Docket No. 17-59 (July 24, 2019); Comments of TCN Inc., CG Docket No. 17-59, at 5-6 (July 24, 2019).

³⁰ *Opt-Out Declaratory Ruling* ¶ 34.

³¹ *Chairman Pai on the SHAKEN/STIR Robocall Summit*, FCC Statement (July 11, 2019) (“As I’ve said before and as panelists noted today, there is no silver bullet to solving the problem of unwanted robocalls.”); *Robocall Strike Force Report*, Robocall Strike Force, at 2 (Oct. 26, 2016) (“There is no silver bullet to solve the robocalling problem.”).

³² See *USTA Comments* at 7 (“[I]t is critical to remember that the SHAKEN/STIR standard is not designed, and has never been intended, to determine caller intent or in and of itself to keep calls from completing.”); see also *AT&T Comments* at 5-9 (explaining that SHAKEN/STIR can be important, but is not determinative, and that more is needed for a provider to make a call blocking determination at this time).

³³ AAHAM Comments at 2-3.

solely on SHAKEN/STIR information, it proposes a “requirement for companies seeking a safe harbor to use vetted caller information.”³⁴ AT&T welcomes innovations that can improve the accuracy of provider-initiated call blocking. However, Numeracle provides no basis on which to justify mandating the use of one particular tool or type of tool. Nor could it, as such a mandate would be unwise as a matter of public policy. Providers need flexibility to use the tools they believe are reliable and appropriate, as well as the ability to adapt as the robocall environment evolves. Just as SHAKEN/STIR itself is not necessary in all instances to reasonably identify illegal robocalls, neither are the data from vetted caller registries. Further, not all calling parties subscribe (or can be expected to subscribe) to a single registry. Requiring providers to subscribe to such a service thus would have limited and uneven benefits, while requiring providers to be aware of and check multiple registries would be unworkable from a business perspective.

II. WHILE THERE IS CONSENSUS THAT CRITICAL CALLS SHOULD BE PROTECTED, THE PROPOSALS TO FACILITATE SUCH PROTECTION REQUIRE FURTHER ANALYSIS

There is consensus that it is important to protect the outbound numbers of first responders³⁵ from inadvertent call blocking.³⁶ AT&T, like other service providers, is committed to protecting these communications. However, there is not yet a clear answer as to *how* to

³⁴ Letter from Rebekah Johnson, CEO, Numeracle, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 17-59, at 1 (Aug. 1, 2019); *see also Numeracle Comments* at 4 (proposing to limit the safe harbor to providers that “[e]stablish a process or utilize existing third-party legal entity vetting providers, such as Numeracle, to associate the vetted identity with a number to prevent blocking of critical and legal calls”).

³⁵ The Commission proposes protection for “outbound numbers of 911 call centers (*i.e.*, PSAPs) and government emergency outbound numbers.” *FNPRM* ¶ 63.

³⁶ *See, e.g.*, Comments of the Boulder Regional Emergency Telephone Service Authority, CG Docket No. 17-59, at 5 (July 24, 2019) (“*BRETSA Comments*”); *Comcast Comments* at 11; *CTIA Comments* at 19; *Sprint Comments* at 4; *T-Mobile Comments* at 9; *USTA Comments* at 9; *Verizon Comments* at 12; Comments of the Voice on the Net Coalition, CG Docket No. 17-59, at 3 (July 24, 2019).

achieve this goal. While the Commission proposes a Critical Calls List,³⁷ the record confirms AT&T's concern that such a list will be complex to compile and maintain.

For example, compiling a Critical Calls List raises both definitional and procedural issues. There is no agreed upon definition of a "critical call" in the record and specifying when a call is considered critical may be difficult.³⁸ Some commenters ask the Commission to expand the proposed Critical Calls List to include calls beyond those from outbound government emergency numbers to include, for example, "important, time-critical, non-telemarketing communications between businesses and their customers."³⁹ AT&T believes that such an expansive definition of "critical" calls would undermine the efficacy of any Critical Calls List and the ability to protect truly critical calls. Accordingly, to the extent a Critical Calls List is established, AT&T would support limiting the list to "outbound numbers of 911 call centers (*i.e.*, PSAPs) and government emergency outbound numbers."⁴⁰

There also are complexities associated with identifying, vetting, and "white listing" numbers once the scope of what qualifies as a "critical" call is settled.⁴¹ In fact, commenters identified no single agency or group that currently maintains such a list of telephone numbers,

³⁷ *FNPRM* ¶ 63.

³⁸ See *Sprint Comments* at 4 (explaining that the personal phone number of a police chief could generate some critical calls and some non-critical calls); *T-Mobile Comments* at 10 ("Expanding the category of critical calls beyond PSAPs will present definitional challenges that will make not blocking problematic, unwieldy, and subjective.").

³⁹ *ABA et al. Comments* at 6.

⁴⁰ *FNPRM* ¶ 63.

⁴¹ See, *e.g.*, *Sprint Comments* at 5 ("Carriers are not well positioned to maintain individual lists of critical callers as this will lead to uneven results by carrier and analytics entities. Furthermore, carriers do not have the expertise to vet the thousands of entities around the country seeking to register as critical callers. Nor should those critical callers have to deal with numerous phone carriers.").

even on a state or service-specific level (*e.g.*, police, fire, EMS).⁴² Further, administering such a list would be a complex task “analogous to the infrastructure required to administ[er] the DNC list,” even more so.⁴³

A key question in determining whether to establish a Critical Calls List is how to “sufficiently protect[] [such a list] from abuse by unscrupulous callers.”⁴⁴ AT&T agrees that the security risk of creating a Critical Calls List is real.⁴⁵ For example, one public safety entity notes that “[e]ntering these numbers on a Critical Call List could . . . make it easier for robocallers to spoof these numbers and make it appear their calls are coming from a trusted authority, making called parties more vulnerable to attempts to defraud them.”⁴⁶ Another calls for the list to be maintained in a “nonpublic manner with the highest level of security from cyberattack or hacking.”⁴⁷ Given the risk that a Critical Calls List could fall into the hands of scammers,⁴⁸ AT&T urges the Commission to continue to gather input and ideas from relevant stakeholders

⁴² INCOMPAS describes certain steps its members have taken to catalogue 9-1-1 call centers. However, any Critical Calls List needs to account for the associated caller ID numbers. *See* Comments of INCOMPAS, CG Docket No. 17-59, at 10-11 (July 24, 2019).

⁴³ *Noble Comments* at 23; *see also* Comments of Larimer Emergency Telephone Authority, CG Docket No. 17-97, at 2 (July 23, 2019) (“*LETA Comments*”) (describing that for its “jurisdiction alone, there will be hundreds of numbers that need to be on the list” and that “[t]o ensure continuous accuracy of the Critical Calls List, agencies will need to upload numbers to the Critical Calls List database initially and, thereafter, have access for updating through an add/edit/delete process”).

⁴⁴ *FNPRM* ¶ 68.

⁴⁵ Verizon explains that “[a]s call blocking tools become more widespread and more effective, illegal robocalls whose contact rates are falling may well begin to impersonate critical calling entities in order to ensure that their calls are not blocked.” *Verizon Comments* at 12. Comcast discusses that if “information about the outbound numbers used by PSAPs were made widely available, fraudulent spoofers may well attempt to use that information and make it appear as though their calls are coming from 911 call centers.” *Comcast Comments* at 12-13.

⁴⁶ *BRETSA Comments* at 5.

⁴⁷ *LETA Comments* at 3-4.

⁴⁸ *Sprint Comments* at 6 (arguing that “[a]ny critical calls list will inevitably become public”).

before adopting any specific proposal.⁴⁹

Given the complex nature of the issue of protecting critical calls, not to mention the high stakes involved, the Commission should not rush to action. It instead should use this record as a starting point to continue work with industry and other stakeholders to determine how best to protect critical calls from inadvertent blocking—whether through the establishment of a Critical Calls List or some other mechanism.

CONCLUSION

AT&T shares the Commission’s commitment to protecting consumers from the plague of illegal and unwanted robocalls. The Commission has taken numerous important steps thus far, but more must be done, and quickly. The record is clear that a broad and flexible safe harbor is one positive step forward the Commission can and should take to target and eliminate illegal calls, while the issue of a Critical Calls List requires further consideration.

Respectfully submitted,

Kevin G. Rupy

Amanda E. Potter
Gary L. Phillips
David Lawson
AT&T SERVICES, INC.
1120 20th Street, NW
Washington, DC 20036

Kevin G. Rupy
Kathleen Scott
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006

August 23, 2019

⁴⁹ In the event the Commission decides to move forward with establishing a Critical Calls List, notwithstanding the outstanding questions and concerns, ensuring that the list does not become a tool for fraudsters and scammers should be a top priority. To that end, AT&T supports the approach proposed by Comcast, where “the Commission [w]ould require those who wish to access the Critical Calls List to certify as to their use of the list, similar to the certification requirement that the Commission recently established in connection with its reassigned numbers database.” *Comcast Comments* at 13.